

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA	§	
	§	
VS.	§	CRIMINAL ACTION NO. 2:10-CR-255
	§	
ADALBERTO HIRAM ELISSETCHE	§	

ORDER


Adalberto H. Elissetche filed a motion for reconsideration of this Court's denial of his motion to reduce sentence pursuant to Amendment 782. D.E.35. The motion is DENIED for the reasons explained below.

Elissetche was convicted of possession with intent to distribute 1372.5 kilograms of marijuana and was sentenced to 95 months in the Bureau of Prisons. D.E. 23. At the time of his sentencing, he was 40 years old and his criminal history included Unlawfully Carrying a DWI, Aggravated Assault, a previous federal felony for possession with intent to distribute 392 kilograms of marijuana for which Elissetche was still on supervised release at the time of his arrest for the present offense. D.E. 17, ¶¶ 22-29. Elissetche's state convictions occurred when he was much younger and did not contribute to his criminal history category, but Elissetche committed the present offense less than a year after his release from prison on his prior drug trafficking offense. Elissetche's current prison disciplinary record is clear and he has taken a number of classes, including the 500 hour RDAP, although his previous violent felony prevented his qualification for early release as a result of taking the program..

Elissetche qualified for consideration of a sentence reduction pursuant to Amendment 782; however “the decision whether to reduce a sentence is left to the sound discretion of the trial court.” *United States v. Boe*, 117 F.3d 830, 832 (5th Cir. 1997). The Court is required to consider the factors set out in 18 U.S.C. § 3553(a). *Id.* The Court considered Elissetche’s history as set out in the original PSR and from the original criminal proceeding and denied his motion for a sentence reduction by Order of the Court dated February 2, 2015, based upon the continuing need to protect the community, one of the § 3553 factors. D.E. 33.

Elissetche’s motion for reconsideration (D.E. 35) is DENIED.

SIGNED and ORDERED this 11th day of March, 2015.



Janis Graham Jack
Senior United States District Judge